

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 1047
HOUSE BILL 2394

AN ACT TO PROVIDE FOR THE FILING OF NOTICES OF LIENS, CERTIFICATES, AND OTHER NOTICES AFFECTING VARIOUS FEDERAL LIENS IN THE SAME MANNER AS NOTICES OF FEDERAL TAX LIENS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 44 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 11A.

"Uniform Federal Lien Registration Act.

"§ 44-68.10. Short title.

This act may be cited as the Uniform Federal Lien Registration Act.

"§ 44-68.11. Scope.

This act applies only to federal tax liens, to other federal liens notices of which under any Act of Congress or any regulation adopted pursuant thereto are required or permitted to be filed in the same manner as notices of federal tax liens, and to notices of federal liens upon real property pursuant to 42 U.S.C. § 9607(l).

"§ 44-68.12. Place of filing.

(a) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this act.

(b) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the clerk of superior court of the county in which the real property subject to the liens is situated.

(c) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as follows:

- (1) If the person against whose interest the lien applies is a corporation or a partnership whose principal executive office is in this State, as these entities are defined in the internal revenue laws of the United States, in the office of the Secretary of State;
- (2) In all other cases, in the office of the clerk of superior court of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

"§ 44-68.13. Execution of notices and certificates.

Certification of notices of liens, certificates, or other notices affecting federal liens by the Secretary of the Treasury of the United States or his delegate, or by any official

or entity of the United States responsible for filing or certifying of notice of any other lien, entitles them to be filed and no other attestation, certification, or acknowledgement is necessary.

"§ 44-68.14. Duties of filing officer.

(a) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection (b) is presented to a filing officer who is:

- (1) The Secretary of State, he shall cause the notice to be marked, held, and indexed in accordance with the provisions of G.S. 25-9-403(4), as if the notice were a financing statement within the meaning of the Uniform Commercial Code, Chapter 25 of the General Statutes; or
- (2) Any other officer described in G.S. 44-68.12, he shall endorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.

(b) If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the Secretary of State for filing he shall cause:

- (1) A certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, Chapter 25 of the General Statutes, but the notice of lien to which the certificate relates may not be removed from the files; and
- (2) A certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code, Chapter 25 of the General Statutes.

(c) If a refiled notice of federal lien referred to in subsection (a) or any of the certificates or notices referred to in subsection (b) is presented for filing to any other filing officer specified in G.S. 44-68.12, he shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where the original notice of lien is entered.

(d) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this act or (reference previous federal tax lien registration act), naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is five dollars (\$5.00). Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of one dollar (\$1.00) per page.

"§ 44-68.15. Fees.

(a) The fee for filing and indexing each notice of lien or certificate or notice affecting the lien in the Office of the Secretary of State is:

- (1) For a lien on real estate, five dollars (\$5.00);
- (2) For a lien on tangible and intangible personal property, five dollars (\$5.00);
- (3) For a certificate of discharge or subordination, five dollars (\$5.00);
- (4) For all other notices, including a certificate of release or nonattachment, five dollars (\$5.00).

(b) The fee for filing and indexing each notice of lien or certificate or notice affecting the lien in the office of the Clerk of Superior Court, and the fee for furnishing the certificate or copies provided for in G.S. 44-68.14(d), is as provided in G.S. 7A-308.

(c) The officer shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents filed by them.

"§ 44-68.16. Uniformity of application and construction.

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

"§ 44-68.17. Liens and notices filed before August 1, 1990.

All liens, notices, certificates, releases and refilings filed before August 1, 1990 to which this Article would otherwise apply if such filing occurred on or after August 1, 1990, and any indexes pertaining thereto, shall be transferred to and maintained in the office in which such filing would have been made had the filing occurred on or after August 1, 1990."

Sec. 1.1. Part 4 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-310.23. Filing notices of Superfund liens.

Notices of liens and certificates of notices affecting liens for obligations payable to the United States under Superfund (42 U.S.C. § 9607(l) shall be filed in accordance with Article 11A of Chapter 44 of the General Statutes."

Sec. 2. Article 11 of Chapter 44 of the General Statutes is repealed.

Sec. 3. This act shall become effective August 1, 1990.

In the General Assembly read three times and ratified this the 27th day of July, 1990.